IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5368 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KHAGESHWARI SYNTHETICS PVT LTD

Versus

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION AND OTHERS

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Appearance :
MR KK TRIVEDI for the Petitioner
MR MB GANDHI for Respondent No.1

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 02/08/2006

ORAL JUDGMENT

1. The petitioner has approached this Court representing that the Gujarat Industrial Development Corporation – respondent No.1 herein after having executed a deed of assignment wherein it is specifically

mentioned that, ".....the first party has made all outstanding dues of the Corporation up to 2003/2004. The first party has made full and final payment to Gujarat Industrial Development Corporation.....", cannot issue an order dated 27.02.2006 against the petitioner.

2. It is mentioned in paragraph No.3 of the affidavit in reply, affirmed on 06.07.2006 of one Shri Digvijaysinh S.Parmar, Regional Manager, GIDC that:

> "To bring the true facts on the record of the case, I state that some cases were found and brought to the notice of the GIDC in the past about the misdeeds of the staff at Surat **for issuance of such no-due certificate**. It was noticed by the GIDC that the party defaulting and the lower staff members had joined hands and thereby such no-due certificates were issued. At that relevant time also the no-due certificate was issued under the signature of the Accounts Officer. I state that the criminal cases have been lodged against the Senior Accounts Officer Mr.R.K.Chaudhry, Mr.Gamit – Assistant and Mr.G.M.Patel – Assistant. That they were all in jail for quite a long time and only on parole they have been released for some time and on completion of parole they will be again back in jail. That the investigation is also going on. That this is another case which has been brought to the notice of the GIDC, namely against M/s.Sai Synthetics for which the present deponent issued notice to the partners of M/s.Sai Synthetics pointing out to them that their cheques in the past have been dishonoured and calling upon them to make the payment of

Rs.6,59,755/- of the dishonoured cheques. Copies of the said letters are produced herewith and marked as **ANNEXURE-R1 (COLLY)**.

The deponent has also stated in paragraph No.9 as under:

> "I further state that while proceedings Section 4 & 5 were initiated, at that time, though the main notice was addressed to the allottee – M/s.Sai Synthetics, but at that time a copy of each and every notice from the day one **were sent to the petitioner. Therefore, the orders which have been passed for which the petitioner cannot say that he was unaware of the proceedings and therefore also it is required on the part of the petitioner to disclose that from day one he is aware of the eviction proceedings**. I take liberty of this Hon'ble Court to present the whole record of the eviction proceedings."

3. Mr.K.K.Trivedi, learned advocate for the petitioner submitted that it is true that the petitioner knew about the proceedings, but as the notices were not issued in the name of the petitioner, he can plead ignorance about the same. Such an argument cannot be heard, more so in the equity jurisdiction under Article 226 of the Constitution of India.

4. This is not unknown in this country that the persons like petitioner do join hands with the lower staff, who are ready to oblige such persons for extraneous

consideration. Present is also the case wherein the deed of assignment is got executed on getting the favour from the lower staff. The 'no-due certificate' was issued by the Accounts Officer who is not otherwise authorized to issue such certificate. It is mentioned in paragraph No.3 as quoted hereinabove that the criminal proceedings are filed against that person. That being so, the petitioner cannot be heard saying that the petitioner has purchased the property in a bonafide manner.

In view of the above, the petition fails and it is dismissed. Rule is discharged with no order as to costs. Ad interim relief is vacated forthwith.

Learned advocate Mr.Trivedi prayed for continuing the ad interim relief granted in his favour. Having found no substance in the matter, the request is rejected.

(RAVI R.TRIPATHI, J.)

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